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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/637,894	04/25/1996	GEORGE TASH	P-2127-40	5079

7590 11/17/2003  
LYON, HARR & DEFRANK  
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SUITE 800  
OXNARD, CA 93030

EXAMINER

FETSUGA, ROBERT M

ART UNIT PAPER NUMBER

3751

DATE MAILED: 11/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 36

Application Number: 08/637,894  
Filing Date: April 25, 1996  
Appellant(s): TASH, GEORGE

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Richard T. Lyon  
For Appellant

EXAMINER'S ANSWER

**MAILED**  
**NOV 17 2003**  
**GROUP 3700**

This is in response to the brief on appeal filed October 6,  
2003.

Art Unit: 3751

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. It is noted an Advisory Action in response to the amendment filed October 6, 2003 was mailed November 3, 2003.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

Art Unit: 3751

**(6) Issues**

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: Appellant appears to indicate the presence of three issues. However, only one issue, involving claim anticipation over the Scarella reference, remains on appeal due to appellant's request that claims 1-4, 6 and 9-17 stand or fall together.

**(7) Grouping of Claims**

Applicant has stated that claims 1-4, 6 and 9-17 stand or fall together. Pursuant to 37 CFR 1.192(c)(7), claim 10 will be considered representative of the subject matter on appeal. See MPEP 1206.

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

2,540,943

Scarella

8-1984

English language translation of FR 2,540,943.

Art Unit: 3751

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claim 10 (and claims 1-4, 6, 9 and 11-17 as standing or falling therewith) is rejected under 35 U.S.C. 102(b) as being anticipated by Scarella. The Scarella reference discloses a plunger comprising: a handle 3; a bellows 5; and three ring-shaped seals 7, as claimed. The seals 7 are vertically stacked and of progressively smaller diameter from uppermost to lowermost when the plunger is oriented as illustrated in Fig. 1.

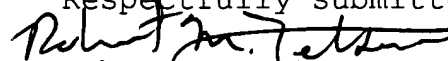
**(11) Response to Argument**

Appellant argues at pages 6-13 of the brief Scarella teaches only two sealing structures at 6 and 9. The examiner can not agree. Noting the English language translation of Scarella at page 5, line 19 through page 6, line 5, ribs 7 (four in number) illustrated on the exterior of the conical body 6 are provided for anchoring the conical body during use of the plunger in a toilet drain thereby preventing slipping and creating a seal.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3751

Respectfully submitted,



Robert M. Fetsuga

Primary Examiner

Art Unit 3751

rmf

November 12, 2003

Conferees

cep 

tn



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